

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
Implementation of Section 621(a)(1) of)
The Cable Communications Policy Act) **MB Docket No. 05-311**
Of 1984 as Amended by the Cable)
Television Consumer Protection and)
Competition Act of 1992)

COMMENTS OF CALIFORNIA SMALL BUSINESS ASSOCIATION

I. INTRODUCTION

The California Small Business Association (CSBA) is a grassroots, volunteer driven, non-profit small business advocacy organization. The CSBA was founded as an outgrowth of the 1980 White House Conference on Small Business. It is a grassroots, volunteer-driven organization dedicated to helping members “grow their businesses,” informing members about government programs and other resources available to assist them, and advocating on their behalf, the California Legislature and the federal and state administrative agencies and courts. In this Notice of Public Rulemaking (“NPRM”) the Federal Communications Commission (the “Commission”) seeks comments on how it should promote greater competition in the delivery of multi-channel video programming.¹ The CSBA joins the chorus of other small business advocates who strongly believe that new entrants in the video service market will benefit small business owners by generating contracting opportunities and innovative services that will enable small businesses to compete globally.

The CSBA is a member of the Consumers for Cable Choice (C4CC)² coalition, which is an alliance of consumer organizations with members throughout the United States. It is committed to the development of a competitive, vibrant cable communications market. The CSBA understands that C4CC will provide detailed comments in this

¹ Noted in caption above.

² Consumers for Cable Choice, Inc. is a not-for-profit corporation formed under Section 501(c)(4) of the Internal Revenue Code and represents 40 consumer groups with more than 1 million members.

proceeding to advise how the Commission can assist cable subscribers by creating an open, diverse, pro-consumer market to stimulate price, choice and service options. Accordingly, the CSBA will focus its comments on two important observations that the Commission made in this NPRM. First, the Commission acknowledges that increased competition can be expected to lead to lower prices and more choices for consumers. Second, the Commission recognizes that competition in the video service market and the rapid deployment of broadband services are intrinsically linked. The CSBA welcomes the opportunity to submit the following comments on behalf of the more than 3 million small businesses throughout the State of California.³

II. DISCUSSION

The Commission's oft-cited *Report on Cable Industry Prices* clearly shows that when competition is introduced into the marketplace and regulatory barriers to entry are reduced, consumers benefit from innovative products and services at competitive pricing. According to the report, average cable rates for basic and expanded basic service were 15.7% lower than in communities without a competing wire-line overbuilder.⁴ Conversely, in most places where Cable remains the monopoly multi-channel video programming distributor (MVPD), consumers have seen rapid increases in prices for basically the same services. In fact, according to the Commission, Cable rates have increased over 86% during the last decade. Some communities saw price hikes of over 10% in 2005 alone. For example, in San Francisco, California a customer who paid \$36.20 for cable three years ago is today paying \$47.93 for the exact same service.⁵

The rapid growth of robust, wireless services and decline in pricing shows how consumers benefit from a deregulated market. The wireless market's growth did not occur until after regulatory barriers were removed. When the Commission created commercial cellular service in March, 1982⁶, it was inconceivable that the cellular market would grow as rapidly as it did. In fact, AT&T had predicted that cellular subscription levels would reach one million by 1999. In reality, cellular subscribership reached that level in 1987,

³ The estimated total number of small businesses in California in 2003 was 3,202,800. Of the 1,063,230 employer firms in 2003, 99.1 percent or an estimated 1,053,700 were small firms.

⁴ See Report on Cable Industry Prices, 20 FCC Rcd 2718, 2721, at ¶12 (2005).

⁵ See Testimony of Robert Johnson before Communications, Technology and Interstate Commerce Committee of the National Conference of State Legislatures, November 2005. <http://www.consumers4choice.org/site/DocServer/Johnson.pdf?docID=361>

⁶ Report and Order, 86 F.C.C.2d 469 (1981), *modified* 89 F.C.C.2d 58 (1982), *further modified*, 90 F.C.C.2d 571 (1982).

and at the end of 1998, there were 69,209,321 wireless subscribers in the U.S.⁷

By the end of 1988, subscription to cellular service stalled at approximately two million customers in the U.S. Costs associated to regulatory compliance partially accounted for consumers having an average monthly cellular bill of \$98.02. The Commission engaged in a major deregulatory effort to significantly deregulate cellular service. Within four years of the FCC's deregulatory effort, cellular subscribership reached 11 million, while the subscriber's average monthly bill dropped by nearly 30 percent.⁸ Congress dramatically reduced regulatory barriers in the wireless industry in the Omnibus Budget Reconciliation Act of 1993.⁹ The combined impact of the Commission's and Congress' deregulatory actions resulted in wireless telephone subscribership rising from 16 million to 69 million, while the average monthly bill dropped by nearly 50 percent.¹⁰ Today, there are more than 100 million mobile customers in this country, paying as little as \$15 per month for basic service. Wireless long distance service has become so inexpensive that about 40% of mobile phone users make long distance calls on their cellular phone while they are home. Clearly this is the model that the Commission and Congress should adopt in order to spur growth in the video services market while reducing prices to consumers.

As troubling as high prices are, the lack of innovative product offerings for small businesses is by far a greater concern to the CSBA. Dr. Esteban Soriano conducted a recent study for C4CC and found that many small business owners were unable to receive high-speed cable services because there is no service in the small office buildings and rental facilities in which they are located. Similarly, other owners stated that they could only receive service if they agreed to pay connection and termination fees in the thousands of dollars.¹¹ Remarkably, Dr. Soriano notes in his study that the small business market historically has not been the focus of incumbent cable companies. This has been the case, despite the fact that cable infrastructure for years has passed most American neighborhoods where small businesses

⁷ CTIA Semi-Annual Wireless Industry Survey Results.

⁸ Amendment of Parts 2 and 22 of the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in the Domestic Public Cellular Radio Telecommunications Service, Report and Order, 3 FCC Rcd. 7033 (1988), recon. in part 5 FCC Rcd 1138 (1990).

⁹ Omnibus Budget Reconciliation Act of 1993, Public Law 103-66.

¹⁰ CTIA Semi-Annual Wireless Industry Survey Results

¹¹ *Broadband Video Access And Economic Advancement: Cable's Unrealized Potential for Big Impact on Small Business*. Esteban Soriano, Ph.D. California Small Business Education Foundation (October 2005)

operate and many cable companies provide Internet access to small business customers.

According to Dr. Soriano, services that could be bundled with video programming, such as high speed access and applications, could be of more interest to small businesses if such services were the focus of specific marketing directed at the small business community. CSBA agrees that increase competition from providers offering both broadband and video services would compel Cable to compete even more aggressively. This action would provide advanced services to small business customers at more reasonable price points. Dr. Soriano provides illustrative examples of how CSBA members and other small businesses around the country could benefit from robust competition that will result from an accelerated cable franchising process:

The increased availability of cable high-speed broadband Internet, and the potential applications of broadband's emerging 2-way interactive, on-demand video/audio capabilities, are awaited by many small businesses since they are recognized as important new tools to reduce costs, expand markets, improve customer service, and increase profits. Small business owners and operators see ways to save travel time, improve client retention, and launch new technology-inspired business services and ventures in technology such as on-demand, in-office training programs; cable TV-enabled providers; client video consultations; virtual face-to-face customer service sessions; and cable video- or broadband-based fee-per-use, on-demand "how to" technical assistance.¹²

III. CONCLUSION

The Commission's very own Report on Cable Pricing documents the rapid escalation of cable rates. While the CSBA supports any industry's efforts to obtain a fair profit for providing a quality product our service, this axiom is predicated on the assumption that consumers – whether small businesses or individual – have access to a competitive market. This does not currently exist in the video services market. What exacerbates the current video service market is the fact that video, telephony and data are converging into bundled product offerings, which if left only to the incumbent Cable monopolies, will be prohibitively expensive to small businesses. Services will also lack innovative features specifically designed to enable small businesses to better compete in the global economy.

¹² Ibid.

The Commission has the authority and the obligation under Section 621 of the Communications Act of 1934 to ensure that local municipalities “not unreasonably refuse to award an additional competitive franchise.”¹³ The Commission can draw from its experience in the cellular industry to deregulate the Cable industry. It can still vest in the local municipalities, the authority to control rights of way, consumer protection matters and local franchising fees. Ultimately, the Commission can best serve municipalities by removing onerous local franchising regulatory barriers. This will attract capital investment from competitors to the incumbent cable monopoly, which will increase contracting opportunities for small businesses, jobs and the tax base for local governments.

Respectfully submitted,

By: Betty Jo Toccoli
President

February 13, 2006

¹³ 47 U.S.C. § 541(a)(1).